

AO 120 (Rev. 3/04)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
---	---

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
filed in the U.S. District Court District of Connecticut on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. 3:08CV318(CFD)	DATE FILED 2/29/08	U.S. DISTRICT COURT District of Connecticut
PLAINTIFF Oil Equipment Manufacturing, LLC		DEFENDANT Anthony M. Uzzo, Anthony M Uzzo, Jr., James D. Gregory, Remote Monitoring Systems, LLC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 See Complaint.	See Complaint.	See Complaint attached.
2 7,292,993		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT		
CLERK Roberta D. Tabora	(BY) DEPUTY CLERK	DATE 2/29/08

Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

Oil Equipment Manufacturing LLC,

Plaintiff,

v.

Anthony M. Uzzo,
Anthony M. Uzzo, Jr.,
James D. Gregory, and
Remote Monitoring Systems LLC,

Defendants.

Civil Action No.:

February 29, 2008

**Complaint For Declaratory Judgment and
Demand For Jury Trial**

Plaintiff Oil Equipment Manufacturing LLC ("Plaintiff" or "OEM"), having its principal place of business at 4 Hershey Drive, Ansonia, Connecticut 06401, by way of Complaint against Defendants, alleges:

Identity And Citizenship Of The Parties

1. OEM is a corporation existing under the laws of Connecticut, with its principal place of business located at 4 Hershey Drive, Ansonia, Connecticut 06401.
2. Upon information and belief, Defendant Anthony M. Uzzo ("Uzzo") is an individual who resides at 5 Woodvale Road, Branford, Connecticut 06405.
3. Upon information and belief, Defendant Anthony M. Uzzo, Jr., ("Uzzo Jr.") is an individual who resides at 3 Canberra Court, Guilford, Connecticut 06437.
4. Upon information and belief, Defendant James D. Gregory ("Gregory") is an individual who resides at 2 Oleander Drive, Clinton, Connecticut 06413.

5. Defendant Remote Monitoring Systems LLC ("RMS") is a corporation organized and existing under the laws of Connecticut, with its principal place of business located at 500 East Main Street, Suite 208, Branford, Connecticut 06405.

Jurisdiction And Venue

6. This action seeks a declaratory judgment that OEM does not infringe United States Patent No. 7,292,993 and/or the claims of that patent are invalid.

7. This Court has subject matter jurisdiction over this action under Section 1338 of Title 28 of the U.S. Code ("Patents...and Unfair Competition") and under the Declaratory Judgment Act, Sections 2201 *et. seq.* of Title 28 of the U.S. Code.

8. This Court has personal jurisdiction over the Defendants because they all reside in Connecticut.

9. Venue for this action is proper in the District of Connecticut pursuant to Section 1391 of Title 28 of the U.S. Code because all of the Defendants reside in this District and a substantial part of the events giving rise to Plaintiff's claims occurred in this District.

Facts

OEM's VisiTank™ System

10. Plaintiff OEM manufactures and distributes petroleum tank accessories and specialty products.

11. One of OEM's products is the VisiTank™ tank level monitoring system.

12. OEM first introduced to the fuel oil market the VisiTank™ system in Spring 2007.

13. OEM's first sale of a VisiTank™ system occurred in June 2007.

14. OEM plans to release an upgraded version of the VisiTank™ system in April 2008.

Defendants' Patent and Discussions between OEM and Defendants

15. In early 2007, OEM and defendants Uzzo, Uzzo Jr. and Gregory and their company Fuel Communications Solutions, Inc. ("FuelComm") entered into discussions about a potential business relationship.

16. During those discussions, OEM described to Uzzo, Uzzo Jr., Gregory and FuelComm the VisiTankTM system.

17. During those discussions, Uzzo, Uzzo Jr., Gregory and FuelComm informed OEM that they had a pending patent application.

18. On November 6, 2007, that application issued as U.S. Patent No. 7,292,993 (the "'993 Patent"), which is attached hereto as Exhibit A.

19. During those discussions and prior to the issuance of the '993 Patent, Uzzo, Uzzo Jr., Gregory and FuelComm provided OEM a letter that is dated May 31, 2007, and authored by Gene S. Winter, Esq. of St. Onge Steward Johnston & Reens LLC, which is attached hereto as Exhibit B.

20. That letter states, "[VisiTankTM] includes each and every limitation of, and therefore literally infringes each of, at least pending claims 1, 2, 4-6, 9-10, 24-25, 27, 30, and 32-35 of the '503 application."

21. That statement is inaccurate and misleading since only the claims of an issued patent can be infringed.

22. During those discussions, Uzzo, Uzzo Jr., Gregory and FuelComm discussed with OEM potential transactions, some of which involved the '993 Patent, but the parties did not reach any arrangement.

23. In January 2008, OEM informed defendant Uzzo OEM plans to release an upgraded version of the VisiTankTM system in upcoming months.

Cease and Desist Letter

24. On or about February 19, 2008, RMS sent OEM a letter dated February 5, 2008, in which RMS informs OEM the VisiTankTM system allegedly infringes the '993 Patent and OEM should "immediately cease and desist all marketing and sales of the product." A copy of the cease and desist letter is attached hereto as Exhibit C.

25. In the cease and desist letter, RMS threatens to file a patent infringement suit against OEM and threatens to "[s]eek a Federal Injunction to halt the sale of the VisiTank System."

26. In the cease and desist letter, RMS threatens to interfere with OEM's current and prospective business relationships by notifying Distributors who sell the VisiTankTM system and Fuel Oil Dealers who purchase the VisiTankTM system they may be held liable for patent infringement.

27. In the cease and desist letter, RMS states, "[W]e will begin the process of notifying all fuel oil dealers that the VisiTank system infringes on our patent and then seek a federal injunction to halt the sale of the system."

28. The cease and desist letter contains several inaccurate and misleading statements.

29. First, the letter does not indicate which VisiTankTM system infringes the '993 Patent.

30. Second, the letter refers to infringement of "claims 1, 2, 4-6, 9-10, 24-25, 27, 30, and 32-35."

31. Those claims, however, are claims from the application and not the issued '993 Patent, which has 18 claims.

32. Third, the letter states OEM "may be ordered to pay triple damages in addition to legal fees for the Contributory Infringement of our patent." The letter also states, "[I]t

will also be our intent to demonstrate your Contributory Infringement and seek damages up to three times the actual damages.”

33. Treble damages are not available upon a finding of contributory infringement.

34. Under Section 284 of Title 35 of the U.S. Code, a court, in its discretion, may increase damages up to three times if the case is exceptional, such as if an infringer is a willful infringer.

35. On February 28, 2008, RMS notified OEM RMS plans to file a patent infringement lawsuit early the following week.

36. Upon information and belief, Uzzo, Uzzo Jr., Gregory and/or RMS are the owners or assignee of the '993 Patent and entitled to file actions for infringement of the '993 Patent.

**First Count
(Declaratory Judgment of Non-Infringement of the '993 Patent Claims)**

37. OEM hereby repeats and makes a part hereof each and every allegation contained in paragraphs 1 through 36 as if set forth at length herein.

38. OEM is under a real and present apprehension that Defendants will commence one or more actions against OEM, or OEM's business interests, claiming infringement of the '993 Patent.

39. The original and upgraded VisiTankTM systems, however, do not infringe any claim of the '993 Patent.

40. Therefore, OEM is entitled to a declaratory judgment that the making, use, sale, or offer for sale by OEM or others of both versions of the VisiTankTM system does not infringe and has not in the past infringed any claim of the '993 Patent.

Second Count
(Declaratory Judgment of Invalidity of the '993 Patent Claims)

41. OEM hereby repeats and makes a part hereof each and every allegation contained in paragraphs 1 through 40 as if set forth at length herein.

42. OEM is under a real and present apprehension that Defendants will commence one or more actions against OEM, or OEM's business interests, claiming infringement of the '993 Patent.

43. The claims of the '993 Patent, however, are invalid for failing to meet the conditions of patentability specified in, for example, Sections 102, 103 and 112 of Title 35 of the U.S. Code.

44. Therefore, OEM is entitled to a declaratory judgment that the claims of the '993 Patent are invalid and, thus, not infringed by either version of the VisiTank™ system.

Prayer For Relief

WHEREFORE, OEM prays for judgment and relief against Defendants as follows:

1. A judgment declaring the making, use, sale, and/or offer for sale by OEM or others of both versions of the VisiTankTM system does not infringe and has not in the past infringed any claim of the '993 Patent;
 2. A judgment declaring the '993 Patent claims are invalid;
 3. A judgment awarding OEM reasonable attorneys' fees, costs, and expenses;
- and
4. Such other and further relief as this Court deems just and proper.

Jury Demand

Plaintiff demands trial by jury.

PLAINTIFF

OIL EQUIPMENT MANUFACTURING LLC

By:


Jonathan B. Tropp, Esq. (CT#1295)

DAY PITNEY LLP

One Canterbury Green

Stamford, CT 06901

Tel: 203-977-7300

Fax: 203-977-7301

Email: jbtropp@daypitney.com

Of Counsel:

John L. Dauer, Jr.

DAY PITNEY LLP

7 Times Square

New York, NY 10036

Tel: 212-297-5839

Fax: 212-916-2940

Email: jdauer@daypitney.com

Its Attorneys